

Chapter 18

FINANCE AND TAXATION*

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ARTICLE I. IN GENERAL

Sec. 18-01. Definitions.

For the purposes of this chapter, unless the context clearly means otherwise, the following words shall have the meanings respectively ascribed to them:

Department: The department of finance.

Director: The director of the department of finance.

Sec. 18-1. Fiscal year.

The fiscal year of the city shall commence on the first (1st) day of July and end on the thirtieth (30th) day of June. (Code 1959, § 1-7)

Sec. 18-2. Billing for city services.

Whenever any bureau of any department or any department renders any services, sells any product or performs any work for any person a bill shall be rendered therefor in quadruplicate; one copy shall be presented to the person for whom the services were rendered and the work performed, or to whom the product sold, one copy to the collector of city taxes, whose duty it shall be to collect such bill, one copy to the director, who shall charge the collector of city taxes therewith, and one copy shall be retained by the department performing the work, rendering the service or selling the product. (Code 1959, § 12-1)

Sec. 18-3. Cash payment for city services.

Whenever any bureau of any department or any department renders any services, sells any product or performs any work for any person for which payment is made in cash, a statement thereof in triplicate shall be prepared; one copy shall be presented to the collector of city taxes, together with the cash and his receipt obtained, one copy to the director, who shall charge the collector of city taxes therewith, and one copy shall be retained by the department performing the work, rendering the service or selling the product. A receipt shall be given to the person making the payment. (Code 1959, § 12-1)

***Charter reference**—Bonds, taxes, sinking funds, etc., § 44 et seq.

Cross references—Department of finance, § 2-324 et seq.; tax code, Ch. 36.

Sec. 18-4. Real estate transfer fees.

The clerk of the general district court shall collect all real estate transfer fees and pay ninety (90) per cent of such fees into the treasury not later than the tenth day of the month following receipt. (Code 1959, § 12-7)

Secs. 18-5—18-15. Reserved.**ARTICLE II. DIRECTOR*****Sec. 18-16. Appointment.**

The city manager shall appoint a director, subject to the approval of the city council. (Code 1959, § 12-8)

Sec. 18-17. Powers, duties in general.

The director shall be the general accountant of the city and shall devote his entire time to the duties of his office. He shall keep a complete set of books for the city in accordance with such system and such forms as the city council shall prescribe which shall include books showing the condition of the sinking fund, school fund and other funds of the city, the condition and amount of the bonded and floating debt of the city, and all other accounts necessary to an accurate understanding of the financial affairs of the city. All books and papers in the director's custody shall be open to the inspection of the city manager, members of the council, city attorney or any other officer of the city who in the discharge of his duties shall have occasion to examine the same. He shall have the right to appoint assistants, to be approved by the city manager, for whose acts and doings he and his sureties shall be responsible. He shall be charged with the responsibility for and exercise a general supervision over the accounts of all of the officers of the city charged in any manner with the receipt, collection or disbursement of city revenues.

The director, as the chief accounting officer of the city, is authorized to issue instructions relating to the handling of accounts, including requisitions, orders, advices, payrolls, bills, receipts, charges, credits, payments and all financial records of whatsoever nature pertaining to all accounting matters of the city, and shall further have authority to require full and prompt compliance therewith by all departments and offices of the city, and the decision of the director in all matters and in the interpretation of the duties and procedure required to be performed by the accounting offices of the city shall be final. No payment of any money owing by the city shall be made unless the same shall have been previously approved by the director in such form and manner as the director of finance may determine, and not then unless there is sufficient money in the account upon which such warrant or check is drawn to cover such warrant or check. He shall make a complete detailed audit of the accounts of all such officers at least once a year and at such other times as he may deem necessary or upon request by the council or the city manager and shall file a written report thereof with the city manager for presentation to council. He shall perform all of the duties heretofore performed by the city auditor and such other duties as the city manager may, from time to time, require of him. Whenever the terms city auditor or auditor appear in this code it shall be taken to mean the director. (Code 1959, § 12-8; Ord. of 4-13-76)

Sec. 18-18. Delinquent taxes.

The director shall perform the duties imposed upon the auditor by the Charter in connection with delinquent property and the sale thereof for delinquent taxes. (Code 1959, § 12-9)

***Cross reference**—Director of Finance, § 2-336 et seq.

Sec. 18-19. Examination of bills, payrolls, etc.

The director shall examine all payrolls, bills, accounts, claims and demands against the city and no money, including interest on the debt of the city, shall be drawn from the treasury or paid by the city to any person, unless the director has first ascertained that the same is correct and owing. (Code 1959, § 12-10)

Sec. 18-20. Checks.

All balances found by the director to be due from the city shall be paid by check drawn by the director or his duly authorized designee and countersigned by the city manager or his duly authorized designee, stating to whom payable and from what account the same is payable; and no money, including interest on the funded debt, shall be drawn from the treasury, except on the check of the director as aforesaid, and no check shall be so given by the director, unless authorized by the council. The director may select other appropriate devices to place such signatures upon the checks. Such device shall be kept so that no one shall have access thereto other than the officers herein authorized to sign checks. Before giving any such check the director shall take care that the payee is not indebted to the city for taxes or other debts, or if indebted, that the amount so due the city is deducted from the checks. (Code 1959, § 12-11; Ord. No. O-81-106 § 1, 5-26-81; Ord. No. O-02-144, 8-13-02)

Sec. 18-21. Semiannual reports.

The director shall present to the council, through the city manager, quarterly financial statements showing the general status of all city funds and accounts as of the last day of the months of December and June. These quarterly reports shall be presented to the council by the forty-fifth (45th) day following the end of the reporting period. (Code 1959, § 12-12)

Sec. 18-22. Annual reports.

The director shall present to the council, through the city manager, by August 15th of each year, a statement of all receipts and disbursements during the preceding fiscal year. (Code 1959, § 12-13)

Sec. 18-23. Information, books, etc., to be furnished on demand.

To enable him to make up his reports, the director is authorized to call on the city attorney, collector of city taxes, commissioner of the revenue or any other officer of the city for any information, books or accounts in their possession which he may deem necessary for the proper discharge of such duty, and any and all officers and departments of the city shall make such reports to the director as he may require. (Code 1959, § 12-14)

Sec. 18-24. Duties in connection with municipal credit and indebtedness.

The director is specially charged with the maintenance of the faith and credit of the city, and the preservation of all books, papers and other data relating to its public debt and other liabilities, and shall do and perform any and all other acts and things not inconsistent with the provisions of the ordinances, which are proper to accomplish the fiscal objects contemplated herein. (Code 1959, § 12-15)

Sec. 18-25. Enforcement of settlement by officers.

Should any officer whose duty it is to receive and collect any of the revenues of the city neglect to submit to the director the information and reports required by section 18-23 as therein prescribed, or fail to settle his accounts and pay into the treasury at the times prescribed by law the balance found due from him, it shall be the duty of the director to give notice of such default to such officer and his sureties, and demand immediate settlement; and in case such settlement is not then made, the director shall call upon the city attorney to take such steps as may be necessary to enforce the payment of any balance which may be due from such officer. He shall also notify the city manager of such default, so that he or the city council may suspend such person from office. (Code 1959, § 12-16)

Sec. 18-26. Charges and credits on accounts of officers who collect city revenues; certain powers and duties enumerated.

(a) The director shall charge each officer whose duty it is to collect the revenues of the city from any source whatsoever with the whole amount which it is the duty of such officer to endeavor to collect, and shall credit him with all collections made by him and paid over to the city collector. All officers whose duty it is so to collect, shall, at such times as the city ordinances may require or the director may demand, submit to him reports of such collections, accompanied with the receipts of the collector for payments. Credits shall also be allowed to the collector for all taxes or other claims in his hands, which may be duly ascertained to be uncollectible and returned as such.

(b) When moneys on hand belonging to the city, in the opinion of the director, justify his doing so, the director may invest or reinvest city funds in accord with provisions of all applicable laws; provided that the director shall provide council with a synopsis of each such investment within a reasonable time after such investment is made. Whenever the use of the money, or any part thereof, is required by the city, the director is authorized and empowered to endorse such certificates of deposit or sell such securities, or any one or more thereof, and to deposit directly the proceeds therefrom to the credit of the city in the same bank which issued the certificate of deposit or through which the securities were purchased and held for safekeeping on behalf of the city.

(c) The director shall be the custodian of all bonds, notes, choses in action and other assets of the city, and he shall be specially chargeable with the assets belonging to the sinking fund.

(d) It shall be the duty of the director to place insurance on the city properties, subject to the council's approval; to have custody of the insurance policies; to arrange temporary loans in accordance with the resolutions and ordinances of the council and the financial requirements of the city; to pass upon, approve or disapprove all orders issued through the purchasing office; to approve and cause to be secured all official bonds required on any officers or employees of the city; and, to exercise control and supervision of all accounting matters not otherwise specifically delegated. He shall at all times have access to voucher records of the council and all other documents and records of the city required for the proper conduct of his duties. (Code 1959, § 12-17; Ord. of 7-10-79)

Secs. 18-27—18-37. Reserved.

ARTICLE III. ASSESSMENT OF TAXES***Sec. 18-38. Compensation of commissioner of the revenue.**

The city shall pay such portion of the salary and office expenses of the commissioner of the revenue, including compensation to his deputies, clerks and assistants, as may be fixed by the state law governing the same. (Code 1959, § 12-27)

State law reference—Compensation of city commissioner of the revenue, Code of Virginia, § 14.1-57.

Sec. 18-39. Duties of commissioner of revenue.

The duties of the commissioner of the revenue, with reference to the assessment of the taxes for the city, except so far as modified by this article, shall be the same as those prescribed for him by law with reference to the assessment of taxes for the state. (Code 1959, § 12-88)

***Cross reference**—Assessment of collection provisions in tax code, § 36-164 et seq.

State law reference—Property exempt from taxation, Code of Virginia, § 58.1-3600 et seq.

Sec. 18-40. Personal property books.

(a) The commissioner of the revenue shall annually prepare three (3) copies of a personal property book in the form provided by state law, and shall properly certify the same. The personal property book shall be delivered before August twenty-fifth of each year and distributed as follows: One copy to the city collector, one copy to the state department of taxation, taking appropriate receipts for the same, with one copy being retained by the commissioner of the revenue. Should the commissioner fail to deliver such copies before the dates above specified, he shall be fined two hundred dollars (\$200.00).

(b) It shall further be the duty of the commissioner of the revenue to prepare and deliver personal property tax tickets at the same time the books are delivered.

(c) After the time such books are delivered and in the event of omitted assessments made by the commissioner or the assessor of real estate, as the case may be, the city collector shall prepare tickets on the basis of such assessments. (Code 1959, § 12-29)

Sec. 18-41. Omitted assessments.

Should the commissioner of the revenue at any time after the personal property book has been delivered to the collector discover that he has omitted any personal property therefrom, he shall assess the same and send a copy of such assessment to the collector and to the director of finance, and keep a record thereof. (Code 1959, § 12-30)

Sec. 18-42. False entries by commissioner.

If the commissioner of the revenue or assessor of real estate shall knowingly make a false entry upon their books, they shall, for each offense, be fined not more than five hundred dollars (\$500.00). (Code 1959, § 12-31)

State law reference—Similar provisions, Code of Virginia, §§ 18.2-207, 58.1-3121.

Sec. 18-43. False returns.

If any person shall knowingly render a false list or statement of his property for taxation to the commissioner of the revenue or assessor of real estate, he shall be fined three hundred dollars (\$300.00). (Code 1959, § 12-31)

Sec. 18-44. Refusal to make return.

When a person refuses to give to the commissioner of the revenue or assessor of real estate the required list of his taxable property, the commissioner or the assessor may make such assessment from any information within their reach, and the person so refusing to give such list shall be fined not less than twenty dollars (\$20.00) nor more than one hundred dollars (\$100.00). (Code 1959, § 12-31)

State law reference—Similar provisions, Code of Virginia, §§ 58.1-3519, 58.1-3110.

Sec. 18-45. Forms for tax returns; delivery to tax payers; failure to make return on time.

The commissioner of the revenue shall annually prepare and cause to be printed, at the expense of the city, blank forms upon which all taxpayers shall be required to render their lists of personal property for taxation, which forms shall, except to the extent modified by the ordinances of the city, conform to those prescribed by law for the same purposes as regards assessments for state taxes, which forms shall be delivered in person or by mail to each taxpayer in the city by the commissioner of the revenue, and the taxpayer shall fill out the same and make return to the office of the commissioner of the revenue within the time required by law. If the taxpayer shall fail to make the return within the time required by law, the

commissioner of the revenue shall proceed forthwith to fill out such form and make such assessment as he deems proper in each particular case. (Code 1959, § 12-32)

State law reference—Taxpayer to make return, Code of Virginia, § 58.1-3518.

Sec. 18- 47. Rate of taxation.

The council shall annually fix the rate of taxation which shall be assessed upon real and personal property and shall prescribe all necessary rules and regulations for assessing and collecting the same which are not provided in the general ordinances of the city. (Code 1959, § 12-34)

Sec. 18- 48. Biennial assessment and reassessment of real estate.

By virtue of the authority granted and set forth in Title 58.1, Chapter 32, Articles 5 and 6 of the Code of Virginia, 1950, as amended, there shall be a biennial assessment and reassessment of real estate in the city, such assessments to be made as provided herein. (Code 1959, § 12-35; Ord. No. O-93-249, 9-14-93; Ord. No. O-95-073, 3-28-95; Ord. No. O-98-046, 3-24-98)

State law reference—Special acts for assessment of taxes, Code of Virginia, § 58.1-3260.

Sec. 18- 49. Election of assessor.

For purposes of personnel management, the city manager shall appoint a person as city assessor who shall assess for taxation all real estate in the city. In assessing such real property, the city assessor shall follow the assessment methods as prescribed by the Code of Virginia and the regulations as developed by the Virginia Department of Taxation. Included in such provisions is a procedure for the orderly consideration of appeals by a court-appointed board of equalization. Questions regarding assessment practices of the city assessor may be directed to either the city manager or city council. (Code 1959, § 12-36; Ord. of 4-13-76; Ord. No. O-93-250, 9-14-93)

Sec. 18- 50. Term, compensation and duties of assessor or assessors.

The term of office of the assessor shall be for an indefinite period, such assessor to serve at the pleasure of the city manager. Any vacancy, however, occurring shall be filled by the city manager. Such assessor shall receive such compensation, and shall be provided such clerical or other assistance as may be necessary, and the city manager shall provide for the payment of such salaries and other expenses as may be properly incident to the work involved. All such salaries, expenses and other costs incurred in connection with such assessment or reassessment shall be paid out of the treasury of the city. Such assessor shall have the same authority as the assessors appointed under the provisions of the Code of Virginia and shall be charged with duties similar to those imposed upon such assessors, except that such assessments or reassessments shall be made and shall have the same effect as if they had been made by assessors appointed under the provisions of the Code of Virginia.

During such time as the assessor appointed hereunder are in office, except when kept in office after an assessment for the sole purpose of equalizing the assessment, all duties imposed and all powers conferred by law on the commissioner of the revenue with respect to the assessment of real estate are transferred to the assessor. Each assessor, before entering upon the duties of his office, shall take and subscribe the oath prescribed by the laws of the state for state officers, which oath shall be filed with the clerk of council. (Code 1959, § 12-37; Ord. No. O-93-250, 9-14-93)

Sec. 18- 51. How assessment to be made.

The city assessor shall assess for taxation at its fair market value all real estate within the city subject to assessment by law and all rights thereto and interest therein, and shall have the right and power to do all things necessary to assess such property.

Every assessment of real estate shall be effective for tax purposes on the first day of July of the fiscal year for which the assessment is made and the taxes and other charges shall be extended on the basis of every such assessment. The beginning of the tax year and assessment year for the assessment of taxes on all real estate assessable by the city for taxation shall be July first, and the owner of such real estate on that day shall be assessed with taxes for the fiscal year beginning on that day.

In assessing any building and the land it occupies which may be owned exclusively by a benevolent or charitable institution, or by a church or religious body, but all of which is not used exclusively for lodge purposes or meeting rooms or for church or religious or charitable purposes, the assessor or assessors shall assess for taxation such proportionate part of the fair market value of the entire property as would be the comparative fair market value of the part of such land and building not used exclusively for lodge purposes or meeting rooms, or for a church or religious or charitable purposes. In addition to the property required to be assessed by the provisions of this article, the assessor or assessors shall value all nontaxable real estate in the city and all other property in the city as may be required by the city council. (Code 1959, § 12-38; Ord. No. O-01-132, eff. 7-1-01)

Sec. 18- 51.1. Special assessments for agricultural, horticultural, forest or open space real estate.

(a) The city finds that the preservation of real estate devoted to agricultural, horticultural, forest and open space uses within its boundaries is in the public interest and, having heretofore adopted a land-use plan, hereby ordains that such real estate shall be taxed in accordance with the provisions of Article 4 of Chapter 32 of Title 58.1 of the Code of Virginia (1950), as amended, and of this section.

(b)(1) The owner of any real estate meeting the criteria set forth in Sections 58.1-3230 and 58.1-3233 of the Code of Virginia shall, on or before May 1 of each year, apply to the city assessor for the classification, assessment and taxation of such property for the next succeeding tax year on the basis of its use, under the procedures set forth in Section 58.1-3236 of the Code of Virginia. In any year in which a general reassessment is being made such application may be submitted until thirty (30) days have elapsed after the notice of increase in assessment is mailed or sixty (60) days preceding the tax year, whichever is later. Such application shall be on forms provided by the state department of taxation and supplied by the city assessor and shall include such additional schedules, photographs and drawings as may be required by the city assessor. An individual who is the owner of an undivided interest in a parcel may apply on behalf of himself and the other owners of such parcel upon submitting an affidavit that such other owners are minors or cannot be located. An application shall be submitted whenever the use or acreage of such land previously approved changes; provided, however, that such property owner must revalidate annually with the city assessor any applications previously approved. A fee of forty dollars (\$40.00) shall accompany each initial application for the classification, assessment and taxation of property in accordance with the provisions of this section and a fee of fifteen dollars (\$15.00) shall accompany each annual revalidation application.

(2) A separate application shall be filed for each parcel on the land book.

(c) Promptly upon receipt of any application, the city assessor shall determine whether the subject property meets the criteria for taxation hereunder. If the city assessor determines that the subject property does meet such criteria, he shall determine the value of such property for its qualifying use, as well as its fair market value.

In determining whether the subject property meets the criteria for "agricultural use" or "horticultural use" the city assessor may request an opinion from the commissioner of agriculture and commerce; in determining whether the subject property meets the criteria for "forest use" he may request an opinion from the director of the department of conservation and economic development; and in determining whether the subject property meets the criteria for "open space use" he may request an opinion from the director of the commission of outdoor recreation. Upon the refusal of the commissioner of agriculture and commerce, the director of the department of conservation and economic development or the director of the commission of outdoor recreation to issue an opinion, or in the event of an unfavorable opinion which does not comport with standards set forth by the respective director, the party aggrieved may seek relief from the circuit court for the city. If said court finds in his favor it may issue an order which shall serve in lieu of an opinion for the purposes of this section.

(d) The use value and fair market value of any qualifying property shall be placed on the land book before delivery to the city collector and the tax for the next succeeding tax year shall be extended from the use value.

(e) There is hereby imposed a roll-back tax, and interest thereon, in such amounts as may be determined under Virginia Code Section 58.1-3237, upon any property as to which the use changes to a non-qualifying use.

(f)(1) The owner of any real estate liable for roll-back taxes shall, within sixty (60) days following a change in use, report such change to the city assessor on such forms as may be prescribed. The city assessor shall forthwith determine and assess the roll-back tax, which shall be paid to the city collector within thirty (30) days of assessment. On failure to report within sixty (60) days following such change in use and/or failure to pay within thirty (30) days of assessment of said roll-back tax and interest such owner shall be liable for an additional penalty equal to ten (10) per cent of the amount of the roll-back tax and interest, which penalty shall be collected as a part of the tax. In addition to such penalty, there is hereby imposed interest of one-half per cent of the amount of the roll-back tax, interest and penalty, for each month or fraction thereof during which the failure continues.

(2) Any person making a material misstatement of fact in any application filed pursuant thereto shall be liable for all taxes, in such amounts and at such times as if such property had been assessed on the basis of fair market value as applied to other real estate in the city, together with interest and penalties thereon, and he shall be further assessed with an additional penalty of one hundred per centum of such unpaid taxes.

(g) The provisions of Title 58.1 of the Code of Virginia (1950) as amended, applicable to local levies and real estate assessment and taxation shall be applicable to assessments and taxation hereunder mutatis mutandis including, without limitation, provisions relating to tax liens and the correction of erroneous assessments, and for such purposes the roll-back taxes shall be considered to be deferred real estate taxes. (Code 1959, § 12-38.1; Ord. of 5-24-77; eff. 1-1-78; Ord. No. O-84-141, § 1, 6-12-84, eff. 7-1-84; Ord. No. O-01-132, 7-10-01, eff. 7-1-01)

Sec. 18- 52. When assessment to be completed and procedure upon completion.

The assessor shall have a goal of completing such assessment and notifying property owners whose assessment values have changed on or before the thirty-first (31st) day of March of each year. Except with respect to new construction and other cases where the same is not practicable, such assessments shall be completed not later than the thirty-first day of March of the year preceding the tax year for which the same shall be effective, and taxes for each year on such real estate shall be made on the basis of the last assessment made prior to such year, subject to such changes as may have been lawfully made. A certified

copy of the assessment, shall be delivered to the director of finance of the city on or before the first day of September of each year. The assessor shall prepare the land book for each year on the basis of the last assessment made prior to such year, subject to such changes as may have been lawfully made by the assessor(s) and shall verify all transfers. It shall not be necessary for the assessor(s) to prepare a reassessment book, but the records of the assessment may be kept on cards or in such other way as the council prescribes; or, in case no such provision is made, as the assessor deems best. (Code 1959, § 1 2-39; Ord. No. O-93-249, 9-14-93; Ord. No. O-01-132, 7-10-01, eff. 7-1-01)

Sec. 18- 52.1. Notice to owner sent only when change in value.

Whenever the assessment of any real estate is changed by the city assessor, the assessor shall give written notice thereof to the owner in whose name such property is listed by mailing the notice to the last known post office address of such owner or person having an interest in the property, but the validity of such assessment shall not be affected by any failure to give or receive such notice. Every such notice shall contain the assessed value of such real estate immediately preceding such increase. (Ord. No. O-01-132, 7-10-01, eff. 7-1-01)

Sec. 18- 52.2. Deadlines for appeals to city assessor and board of equalization.

Any property owner or lessee of real property in the city shall have the right to appeal any assessment thereof to the city assessor at any time prior to March 31 of the year prior to the effective date of assessment or 30 days after the mailing date of the assessment notice, whichever is later. Any property owner remaining unsatisfied with the action taken on appeal may further appeal to the city's board of equalization by making application at any time prior to July 31 of the year for which the assessment was made or 30 days after the deadline for review by the city assessor, whichever is later. Any appeal not timely filed shall not be considered. (Ord. No. O-01-132, 7-10-01, eff. 7-1-01)

Sec. 18- 52.3. Assessment of new buildings substantially completed; extension of time for paying assessment.

All new buildings substantially completed or fit for use and occupancy prior to May 1 of the year of completion shall be assessed when so completed or fit for use and occupancy, and the city assessor shall enter in the books the fair market value of such building. No partial assessment as provided herein shall become effective until information as to the date and amount of such assessment is recorded in the office of the official authorized to collect taxes on real property and made available for public inspection. The total tax on any such new building for that year shall be the sum of (i) the tax upon the assessment of the completed building, computed according to the ratio which the portion of the year such building is substantially completed or fit for use and occupancy bears to the entire year, and (ii) the tax upon the assessment of such new building as it existed on July 1 of that assessment year, computed according to the ratio which the portion of the year such building was not substantially complete or fit for use and occupancy bears to the entire year. With respect to any assessment made under this section after March 1 of any year, the penalty for nonpayment by June 5 shall be extended to August 5 of the succeeding fiscal year. (Ord. No. O-01-132, 7-10-01, eff. 7-1-01)

Sec. 18- 52.4. Abatement of taxes on buildings razed, destroyed or damaged.

The city assessor shall, upon application made as hereinafter provided, abate the current tax on any building which is razed or destroyed or damaged by a fortuitous happening beyond the control of the owner. However, no such abatement shall be allowed if the destruction or damage to such building shall decrease the value thereof by less than five hundred dollars (\$500.00). Also, no such abatement shall be allowed unless the destruction or damage renders the building unfit for use and occupancy for thirty days or more during the tax year. The tax on such razed, destroyed or damaged building is computed according to the ratio which the portion of the year the building was fit for use, occupancy and enjoyment bears to the entire tax year. Application for such abatement shall be made by or on behalf of the owner

of the building within six months of the date on which the building was razed, destroyed or damaged. (Ord. No. O-01-132, 7-10-01, eff. 7-1-01)

Sec. 18-53. Reproduction and sale of modified land book.

The assessor may annually after the current land book is prepared cause certain information regarding ownership, assessed value and description of property in such land book to be reproduced in such number of copies as he deems necessary to meet the demands of the public for its use, and to authorize such reproductions to be sold to persons applying for such reproductions at a price to be fixed by the director. The proceeds of the sale of such reproductions shall be paid into the general fund. It shall be unlawful for any person except the assessor and his duly authorized representative to sell or offer any such reproduction for sale or to copy, or cause to be copied or reproduced, the whole or any part of any such reproduction and to sell or offer such copy or reproduction for sale. (Code 1959, § 12-39.1)

Sec. 18-54. Board of equalization—Appointment; composition; term; compensation.

Each tax year, beginning with the tax year starting on July 1, 2002, the circuit court for the City of Lynchburg appoints for the city the board of equalization or review of real estate assessments in the city to be composed of not less than three (3) nor more than five (5) members who shall be freeholders of the city. Terms of the members so appointed shall commence on the first day of July and shall expire on the thirtieth day of June in the tax year in which they are appointed. Members of the board shall receive per diem compensation, for time actually engaged in the duties of the board, to be fixed by the council of the city and paid out of the city treasury. The council may limit the per diem compensation to such number of days, as in its opinion, is sufficient for the completion of the work of the board. The assessor or a representative designated by him shall attend all meetings of the board with the right to take part in the discussion but having no vote. (Code 1959, § 12-40; Ord. No. O-87-042, § 1, 3-10-87; Ord. No. O-87-266, § 1, 11-24-87; Ord. No. O-93-191, 6-22-93; Ord. No. O-01-132, 7-10-01, eff. 7-1-01)

Sec. 18-55. Same—Powers.

The board of equalization or review shall and may exercise the power to revise, correct and amend any assessment of real estate made by the assessor or assessors in the year in which they serve, and to that end shall have all the powers conferred upon boards of equalization by Section 58.1-3378, Section 58.1-3379 and Section 58.1-3387 of the Code of Virginia. The board of equalization or review may adopt any regulations providing for oral presentations, with formal petitions or other pleadings or requests for review and looking to the further facilitation and simplification of the proceedings before the board, provided such regulations do not conflict with the provisions of this article. Any person wishing to apply to the board of equalization for review of an assessment must submit an application to the board no later than the thirty-first day of July for the year the assessment is effective. The city shall assess real estate on a biennial basis and during the off year the board's authority to hear complaints shall be limited to assessments based upon new construction, improvements, alterations, rezoning, demolitions, fire losses, land subdivisions and similar situations for which changes of assessment are mailed to property owners by the city assessor's office. (Code 1959, § 12-41; Ord. No. O-87-266, § 1, 11-24-87; Ord. No. O-93-249, 9-14-93; Ord. No. O-01-132, 7-10-01, eff. 7-1-01)

Sec. 18-56. Same—Right of appeal.

Any person of the city aggrieved by any assessment may apply for relief in the manner provided by Code of Virginia, Sections 58.1-3984 to 58.1-3989. (Code 1959, § 12-42; Ord. No. O-87-266, § 1, 11-24-87)

Secs. 18-57—18-67. Reserved.

ARTICLE IV. COLLECTION OF TAXES***Sec. 18- 68. Appointment of collector of taxes; duties; appointment of assistants; collection of fees.**

The city manager, upon recommendation of the director of finance, shall appoint a collector of city taxes, whose duty it shall be to collect all taxes, including license fees, assessments, rents, fines, penalties and other income and revenue of the city which it is not made specially the duty of some other officer to collect. He shall also be the collector of all delinquent taxes due the city. He shall have the right to appoint one or more assistants, to be approved by the city manager, for whose acts and doings he and his sureties shall be responsible.

The collector and his assistants shall collect such fees as are allowed to the collector by virtue of the laws of the state and ordinances of the city, but shall pay such fees into the city treasury along with other collections. (Code 1959, § 12-43)

Sec. 18- 69. Allocation of local taxes.

As of July 1, 1954, any ordinance to the contrary notwithstanding, all local taxes collected, current and delinquent, including penalties and interest, shall be credited to the general fund, and, beginning July 1, 1954, the allocation of funds to the schools and the public works reserve fund shall be by way of appropriations from the general fund; provided, however, that the school fund for the fiscal year 1953-54 shall be entitled to one-half of its former share [one dollar fifteen cents (\$1.15) per hundred of assessment] of real estate taxes levied for the calendar year 1954, notwithstanding the fact that more than one-half of its former share was collected prior to July 1, 1954.

All acts of officers of the city in effectuating the change of method outlined in this section prior to the adoption hereof are hereby in all respects ratified and confirmed. (Code 1959, § 12-44)

Sec. 18- 70. Property omitted from assessment.

Should the city collector discover any property, real or personal, or any capitation taxes, which have been omitted from assessment upon the books of the commissioner of the revenue, he shall report the same to the commissioner, in writing, who shall make the proper assessments. (Code 1959, § 12-45)

Sec. 18- 71. Tax tickets.

It shall be the duty of the city collector, upon receipt from the commissioner of the revenue of a separate ticket against each taxpayer whose name is contained on the real and personal property tax books, to verify each such ticket and appropriate assessment in the land book or the personal property book. (Code 1959, § 12-46)

Sec. 18- 72. Sale of property to satisfy delinquent taxes.

When it becomes necessary for the city collector to levy or distrain upon the property of any delinquent taxpayer, the same shall be sold at public auction on the premises of such taxpayer, or at such public place as the collector may deem best calculated to secure a fair price for such property. From the proceeds of such sale he shall satisfy the tax due the city, and all costs of collection, paying the residue over to the delinquent. (Code 1959, § 12-47)

***Cross reference**—Assessment of collection provisions in tax code, § 36-164 et seq.

Sec. 18-73. Payments into treasury.

The city collector shall pay into the treasury daily all collections made by him of all moneys in his hands, or that may come into his hands, belonging to the city in one (1) or more of the following banks, savings and loan associations or other financial institutions: Signet Bank, VA, Central Fidelity Bank, Sovran Bank, N.A., Crestar Bank, The Co-Operative Building and Loan Association of Lynchburg, Incorporated, First Federal Savings and Loan Association of Lynchburg, Incorporated, Coreast Savings Bank, Colonial American Bank, First Community Bank, Investors Savings Bank and Jefferson Savings & Loan Association to the credit of the city. (Code 1959, § 12-48; Ord. of 5-11-76; Ord. of 6-28-77; Ord. No. O-87-125, § 1, 6-23-87; Ord. No. O-88-185, § 1, 8-9-88)

Sec. 18-74. Annual lists of delinquent taxes.

On or before the fifteenth (15th) day of August in each year the city collector shall classify into the following alphabetical lists all claims of the city in his hands for taxes and assessments due for the preceding year, which he is unable to collect by garnishment, distress, levy or other means in his power:

(a) A list of the property, both real and personal, improperly placed on the commissioner's books, or not ascertainable, together with the amount of taxes or assignments charged thereon.

(b) A list of the delinquent taxes on personal property, with the names and residences of the persons assessed therewith.

(c) A list of real estate which is delinquent for the nonpayment of taxes thereon, which list shall be in the following form:

"List of real estate in the City of Lynchburg, delinquent for the nonpayment of taxes thereon for the year..."

Name of Owner	No. of Lot	Feet Front	Location	Amount of Taxes	Penalty
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And the collector shall, at the foot thereof, subscribe the following oath:

"I, A. B., collector of the City of Lynchburg, do swear that the foregoing list is, I verily believe, correct and true; and I have received no part of the taxes for which the real estate therein mentioned is returned delinquent, and that I have used due diligence to find property liable to distress for said taxes, but have found none." (Code 1959, § 12-49)

Sec. 18-75. Delinquent lists to speak as of June thirtieth.

The lists mentioned in section 18-74 shall speak as of June thirtieth of each year, that is to say, such lists shall conform to the facts as they existed on such date. (Code 1959, § 12-50)

State law reference—Similar state law, Code of Virginia, §§ 58.1-1800, 58.1-3922.

Sec. 18-76. Delivery of delinquent lists; settlement; collection of delinquent taxes.

The city collector shall, on or before the fifteenth day of August in each year, deliver the lists called for in items (a) and (b) of section 18-74, to the director, who shall examine the same before the thirtieth day of August. If the director of finance be satisfied that the lists are correct, he shall allow the collector credit for the amounts thereof in his annual settlement of such taxes, which shall be made on the thirtieth day of August; but if such lists, or any of them, be found incorrect, credit shall be allowed for all or so much thereof as is correct.

The city collector shall, as delinquent tax collector, proceed to collect such delinquent taxes as speedily as possible and make daily settlement for all such delinquent taxes so collected with the director who shall give him credit for all such delinquent taxes so collected and accounted for. (Code 1959, § 12-51)

Sec. 18- 77. False returns by collector.

If the city collector shall return in any such list real estate as delinquent for the nonpayment of taxes, when such taxes, or any part thereof, shall actually have been received by him, he shall forfeit, if the return was by design, ten (10) times the amount of the taxes so actually received, and if the return was by mistake, twice the amount, one-half of which forfeiture shall, in any case, go to the city, and the other half to the person charged with such taxes. If the collector shall return in any such list any real estate as delinquent, when he has either found, or by using due diligence might have found, sufficient property liable to distress for the taxes for which such real estate is returned delinquent, he shall forfeit to the city five (5) times the amount of such taxes. (Code 1959, § 12-52)

Sec. 18- 78. Lien on real property for taxes.

The year for which taxes on real estate are assessed shall be deemed to commence on the first day of January, and from that day, there shall be a lien on such real estate for the taxes assessed thereon until the same are paid and for any penalties for failing to pay same as provided by law. It is further provided, however, that for the fiscal year beginning July 1, 1972 and ending June 30, 1973, and also for each and every fiscal year thereafter beginning July first and ending June thirtieth, of each such year, unless otherwise changed by council, that the year for which taxes on real estate are assessed shall be deemed to commence on the first day of July, and from that day, there shall be a lien on such real estate for the taxes assessed thereon until the same are paid and for any penalties for failing to pay the same as provided by law. All taxes and assessments shall be regarded as due and payable at such time as may be prescribed in the annual tax ordinances. (Code 1959, § 12-53)

Charter reference—Connection with the creation of liens, § 58.

Sec. 18- 79. Persons by whom taxes payable.

All taxes on real estate imposed by any ordinance of the council shall be payable by the persons, who, on the first day of January in each and every year, were the respective owners thereof. It is further provided, however, that for the fiscal year beginning July 1, 1972 and ending June 30, 1973, and also for each and every fiscal year thereafter beginning July first and ending June thirtieth, of each such year, unless otherwise changed by council, that all taxes on real estate imposed by any ordinance of the council shall be payable by the persons, who, on the first day of July in each and every year, were the respective owners thereof. (Code 1959, § 12-54)

Sec. 18- 80. Fee for passing bad checks.

Any individual, firm, association, partnership or corporation which shall utter, publish or pass any check or draft for payment of taxes or any other sums due the city, which is subsequently returned for insufficient funds or because there is no account or the account has been closed shall be required to pay in addition to the amount of the check or draft a penalty fee of twenty-five dollars (\$25.00) for each bad check or draft so uttered, published or passed. (Code 1959, § 12-54.1; Ord. No. O-84-141, § 1, 6-12-84, eff. 7-1-84; Ord. No. O-86-054, § 1, 4-8-86, eff. 7-1-86; Ord. No. O-88-062, § 1, 3-22-88, eff. 7-1-88; Ord. No. O-91-053, 3-26-91, eff. 7-1-91; Ord. No. O-98-188, 8-11-98)

Sec. 18- 81. Sale of land for delinquent taxes.

When the city collector shall collect any delinquent taxes which have been filed in the clerk's office of the general district court, as provided in Section 57 of the Charter, he shall collect a fee of twenty-five cents (\$0.25) from the party paying such taxes, such fee to be paid to the clerk for marking the same redeemed on

the delinquent land books as provided in Title 58, Chapter 21, Article 8, of the Code of Virginia. (Code 1959, § 12-55)

State law reference—Sale of delinquent lands generally, Code of Virginia § 58.1-3965 et seq.

Secs. 18-82—18-99. Reserved.

ARTICLE V. SPECIAL FUNDS

DIVISION 1. GENERALLY

Sec. 18-100. Creation of electrical rate adjustment fund.

In order to prepare for the increased electrical rates the City and Public Schools will experience at the conclusion of the current franchise agreement with Appalachian Power Company on August 16, 1996, there is hereby established a fund for electrical rate adjustment for the 1991 fiscal year and each fiscal year thereafter, as follows:

(a) The preparation of future budgets shall include the “dedication” of sums within the General Fund and the Utility Fund which are equal to fifteen percent (15%) of that portion of all Fund revenues in excess of the original Council-adopted budget income to the Fund for the preceding budget year. For each Fund, these dedicated revenues for the applicable budget year shall be combined with the total amount of revenues as similarly-dedicated within the Fund from prior budget years to produce a sum which represents the cumulative amount of “recurring, dedicated revenues for electrical rate adjustment.” For the purposes of budgetary forecasting or formulation, the total amount of annual revenues/income to each Fund shall be reduced by the respective amount of such “recurring, dedicated revenues” until such time that this cumulative amounts equal \$2.4 million annually in the General Fund and \$1.1 million annually in the Utility Fund.

(b) There is hereby established a “Reserve for Electrical Rate Adjustment” in the General Fund and in the Utility Fund. Resources of this special reserve account within each Fund shall become available to subsidize the recurring increase in annual electricity costs for municipal services which results from the expiration of the current electrical service contract in August 1996. On a year-to-year basis, the amount of this subsidization may equal a sum up to the difference between the “recurring, dedicated revenues for electrical rate adjustment,” as defined above, and the sum of \$2.4 million in the General Fund and \$1.1 million in the Utility Fund.

Funding to this “Reserve for Electrical Rate Adjustment” within each Fund will include (1) the cumulative amounts of “recurring, dedicated revenues for electrical rate adjustment” during the five (5) fiscal years from 1991-92 through 1995-96; (2) sums equal to twenty-five percent (25%) of the amount which remains in the “Reserve for Contingencies” of each Fund at the June 30 close of each year commencing with the 1990-91 fiscal year; (3) interest savings which result from refinancing of any bonded indebtedness; (4) interest earnings which are earned via investment of the resources within this Reserve; and (5) such other resources which City Council may choose to direct to this Reserve. (Ord. No. O-91-108, 5-28-91; Ord. No. O-95-036, 2-14-95, eff. 7-1-96)

Editor's note: Ordinance No. O-95-036, adopted February 14, 1995, repeals Sec. 18-100 to become effective July 1, 1996.

Sec. 18-100.1. Creation of a support fund for strategic initiatives. (Repealed by Ord. No. O-02-161, 9-1002)

Sec. 18-100.2. Creation of designated general fund balance (Repealed by Ord. No. O-0-105, 5-23-00, eff. 7-1-00)**Secs. 18-101—18-105. Reserved.**

DIVISION 2. SINKING FUNDS*

Sec. 18-106. Creation of sinking fund.

The council shall provide a sinking fund of one and one-half (1-1/2) per cent on all sinking fund bonds of the city now outstanding, and a like sinking fund of one and one-half (1-1/2) per cent for all sinking fund bonds of the city hereafter issued, until such time as the assets of the sinking fund are sufficient to retire such sinking fund bonds. (Code 1959, § 12-63)

Sec. 18-107. Commission of the sinking fund—Purpose; membership.

For the purpose of managing, preserving and applying the sinking fund required to be created by the city Charter and section 18-106, there shall be a board of five (5) members to be called the “Commission of the Sinking Fund,” which shall be composed of the following officers of the city: The city manager, the director, the mayor, the vice-president of the council and one other member of the council elected by the council for a term concurrent with the term of office of the mayor. (Code 1959, § 12-64)

Sec. 18-108. Same—Officers.

The director shall be the secretary of the sinking fund commission and shall keep a full and correct journal of the proceedings of every meeting, to be signed by himself and the president, and shall preserve all books and papers of the sinking fund commission in his office. The president of the sinking fund commission shall be the mayor. (Code 1959, § 12-65)

***Charter reference**—Sinking funds, §§ 50, 51.

State law reference—Sinking funds, Code of Virginia, § 58.1-3006.

Sec. 18- 109. Same—Destruction of canceled bonds.

Twice a year or oftener, the sinking fund commission shall cause all canceled coupons paid, and all city bonds paid off, to be burned, in the presence of the sinking fund commission, and a proper record of the burning shall be noted by the secretary of the sinking fund commission. (Code 1959, § 12-66)

Sec. 18- 110. Same—Report of commissioners.

On or before the first regular meeting of the council in February of each year, the commissioners of the sinking fund shall make a report to the council of its proceedings during the previous year. (Code 1959, § 12-67)

Sec. 18- 111. Accounts; custody and use of funds.

The director shall keep an account of and shall be the custodian of all moneys, bonds and other evidences of debt belonging to the sinking fund, and shall deposit the same in the name of the sinking fund commission in one or more of the banks of the city designated as depositories of the city, and all sums deposited to the credit of such account shall be sacredly applied to the redemption of the bonds of the city, for which the sinking fund was created. (Code 1959, § 12-68)

Sec. 18- 112. Investments.

The sinking fund commission shall apply all appropriations and interest or other proceeds from any bonds held by the sinking fund commission to the purchase at market value of bonds of the city, or of the United States, or of this state, or of any city of the state having a population of over ten thousand (10,000) inhabitants, or in other bonds or securities, the payment of which are guaranteed both as to principal and interest by the government of the United States, or to the purchase of such other securities as may now or hereafter be authorized by law for sinking fund investments. The accruing interest on all securities held by the sinking fund commission shall be collected by the director when due, and deposited to the credit of the sinking fund commission. Whenever any part of the city debt for which the sinking fund was created shall become due, unless other provision be made by the council, such securities, so far as may be necessary, shall be sold by the sinking fund commission and the proceeds applied to the payment of such matured part of such city debt. The sinking fund commission may at any other time and from time to time, but only with the approval of the council, sell or otherwise dispose of any securities held in the sinking fund and reinvest the proceeds in such lawfully authorized investments as may be approved by the council. (Code 1959, § 12-69)

Secs. 18- 113—18- 118. Reserved.**DIVISION 3. SELF INSURANCE FUND**

Editor's note—Sections 18-119—18-123, pertaining to the fire protection reserve fund, and derived from §§ 12(a)—(c) of an ordinance adopted June 10, 1975, were repealed by § 2 of Ord. No. O-84-205, adopted Aug. 14, 1984.

Sec. 18- 124. Creation of self- insurance fund.

The city council hereby establishes a self-insurance fund for the payment of claims and judgments against the City of Lynchburg, and expenses in connection therewith, by transferring the funds that were previously held in the general fund reserve for uninsured deductibles and a utilities fund reserve for uninsured deductibles. The funds shall be administered by the city attorney's office and will be used for the purpose of paying property damage and liability claims, judgments and expenses according to regulation promulgated by the city manager. (Ord. No. O-84-205, § 1, 8-14-84; Ord. No. O-86-059, § 1, 4-22-86, eff. 1-1-86; Ord. No. O-91-224, 9-10-91, eff. 10-1-91)

Sec. 18-125. Appropriations.

The sum of \$508,146.66 is hereby transferred into the Self-Insurance Fund. All interest earned by the moneys in such funds shall be deposited in the Self-Insurance fund to which such interest is attributable and all excess premiums and insurance refunds shall also be deposited in the fund to which such moneys are attributable. If the Self-Insurance Fund balance is less than the \$500,000.00, funds shall be appropriated as are necessary to restore the Fund to the required balance. (Ord. No. O-84-205, § 1, 8-14-84; Ord. No. O-86-059, § 1, 4-22-86, eff. 1-1-86)

Sec. 18-126. Annual report.

The city attorney shall file a report with the city manager in such form and at such time as the city manager may require. (Ord. No. O-84-205, § 1, 8-14-84; Ord. No. O-86-059, § 1, 4-22-86, eff. 1-1-86; Ord. No. O-91-224, 9-10-91, eff. 10-1-91)

Secs. 18-127—18-144. Reserved.

Editor's Note—Division 4 of Article V, Public Works Reserve Fund, was repealed by Ord. No. O-01-169, 9-18-01, eff. 6-30-01

ARTICLE VI. CITY CONTRACTS AND PROCUREMENTS***DIVISION 1. GENERALLY****Secs. 18-145—18-148. Repealed (Ord. No. O-82-262, 12-14-82)****Sec. 18-149. Interest of city officials.**

(a) No member of the council, member of the school board or any other officer or agent of the city, during the term for which he is elected or appointed, shall be a contractor or subcontractor with the city or its agents nor shall he be interested, directly or indirectly, in any contract, subcontract, or job of work, or materials, or the profits or contract price thereof, or any services to be performed for the city for pay under any contract or subcontract; and no such councilman, officer or employee shall be interested, directly or indirectly, in any contract, subcontract, or job of work, or materials or the profits or the contract price thereof, or services to be furnished or performed for the city for pay under any contract or subcontract; nor as agent for such contractor or subcontractor, or other person furnishing any supplies or materials. Every such contract or subcontract shall be void, and the officer, councilmen council member or agent, making such contract shall forfeit to the city the full amount stipulated for thereby.

(b) No officer of the city, who alone, or with others is charged with the duty of auditing, settling or providing, by levy or otherwise, for the payment of claims against the city shall, by contract, directly or indirectly, become the owner of or be interested in any claim against the city. Every such contract or subcontract shall be void, and if any such claim be paid, the amount paid, with interest, may be recovered back by the city, within two (2) years after payment, by action or motion in the circuit or general district court having jurisdiction over the city.

(c) The term "contract" as used in this section shall not be held to include the depositing of city funds in, or the borrowing of funds from, local banks in which a councilman or other officer of the city may be director or officer or have a stock interest; nor shall it include the granting of franchises to or purchase of services from public service corporations.

(d) This section shall not apply to attorneys for the state employed by the governing bodies of cities under the provisions of Code of Virginia, sections 58-762, 58-1016 or 58-1102 to collect taxes which are a lien on real estate. (Code 1959, § 12-74)

State law reference—Conflict of interests act, Code of Virginia, § 2.1-639.1 et seq.

DIVISION 2. PROCUREMENTS

Sec. 18- 150. Title; purposes.

(a) This ordinance may be cited as the Lynchburg Public Procurement Act.

(b) The purpose of this ordinance is to supplement the provisions of the Virginia Public Procurement Act (the Act) by enunciating the city's policies pertaining to governmental procurement from nongovernmental sources, to encourage competition among vendors and contractors, to provide for the fair and equitable treatment of all persons involved in public purchasing by this city, to maximize the purchasing value of public funds in procurement so that high quality goods and services may be obtained at the lowest possible price and to increase public confidence in procurement practices by providing safeguards for maintaining a procurement system of quality and integrity. (Ord. No. O-82-262, § 1, 12-14-82; Ord. No. O-85-002, § 1, 1-8-85)

Sec. 18- 151. Definitions.

The words defined in this section shall have the meanings set forth below throughout this ordinance:

(a) Competitive sealed bidding is a method of contractor selection which includes the following elements:

(1) Issuance of a written Invitation to Bid containing or incorporating by reference the specifications and contractual terms and conditions applicable to the procurement. Unless the city has provided for prequalification of bidders, the Invitation to Bid shall include a statement of any requisite qualifications of potential contractors. When it is impractical to prepare initially a purchase description to support an award based on prices, an Invitation to Bid may be issued requesting the submission of unpriced offers to be followed by an Invitation to Bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(2) Public notice of the Invitation to Bid at least ten (10) days prior to the date set for receipt of bids by posting in a designated public area, or publication in a newspaper of general circulation, or both. In addition, bids may be solicited directly from potential contractors. Any such additional solicitation shall include businesses selected from a list made available by the office of minority business enterprise.

(3) Public opening and announcement of all bids received.

(4) Evaluation of bids based upon the requirements set forth in the Invitation, which may include special qualifications of potential contractors, life cycle costing, value analysis and any other criteria such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose, which are helpful in determining acceptability.

(5) Award to the lowest responsive and responsible bidder. When the terms and conditions of multiple bids are so provided in the Invitation to Bid, awards may be made to more than one (1) bidder.

(6) Competitive sealed bidding shall not be required for procurement of professional services.

(b) Competitive negotiation is a method of contractor selection which includes the following elements:

(1) Issuance of a written Request for Proposal indicating in general terms that which is sought to be procured, specifying the factors which will be used in evaluating the proposal and containing or

incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of the contractor.

(2) Public notice of the Request for Proposal at least ten (10) days prior to the date set for receipt of proposals by posting in a public area normally used for posting of public notices or by publication in a newspaper of general circulation in the area in which the contract is to be performed, or both. In addition, proposals may be solicited directly from potential contractors.

(3)(a) Procurement of professional services. The city shall engage in individual discussions with two (2) or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence to provide the required services. Repetitive informal interviews shall be permissible. Such offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. The request for proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage the city may discuss nonbinding estimates of total project costs, including, but not limited to, life cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this paragraph above, on the basis of evaluation factors published in the Request for proposal and all information developed in the selection process to this point, the city shall select in the order of preference two (2) or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the city can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the city determine in writing and in its sole discretion that only one (1) offeror is fully qualified, or that one (1) offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

b. Procurement of other than professional services. Selection shall be made of two (2) or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the request for proposal, including price if so stated in the request for proposal. Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the city shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. Should the city determine in writing and in its sole discretion that only one (1) offeror is fully qualified, or that one (1) offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

(c) City shall mean the City of Lynchburg.

(d) Construction shall mean building, altering, repairing, improving or demolishing any structure, building or highway, and any draining, dredging, excavation, grading or similar work upon real property.

(e) Construction management contract shall mean a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner.

(f) Goods shall mean all material, equipment, supplies, printing and automated data processing hardware and software.

(g) Informality shall mean a minor defect or variation of a bid or proposal from the exact requirements of the invitation to bid, or the request for proposal, which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.

(h) Nonprofessional services shall mean any services not specifically identified as professional services in the definition of professional services.

(i) Professional services shall mean work performed by an independent contractor within the scope of the practice of accounting, architecture, land surveying, landscape architecture, law, medicine, optometry or professional engineering.

(j) Potential bidder or offeror shall, for the purposes of Section 18-159, mean a person who, at the time a public body negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the sale of services, insurance or construction, of the type to be procured under such contract, and who at such time is eligible and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.

(k) Responsible bidder or offeror shall mean a person who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will assure good faith performance, and who has been prequalified, if required.

(l) Responsive bidder shall mean a person who has submitted a bid which conforms in all material respects to the invitation to bid.

(m) Services shall mean any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies. (Ord. No. O-82-262, § 1, 12-14-82; Ord. No. O-85-002, § 1, 1-8-85; Ord. No. O-88-015, § 1, 1-26-88)

Sec. 18- 152. Methods of procurement.

(a) All contracts by the city with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance or construction shall be awarded after competitive sealed bidding or competitive negotiation as provided in this section, unless otherwise authorized by law.

(b) Professional services shall be procured by competitive negotiation.

(c)(1) Upon a determination, made in advance by the city manager and set forth in writing, that competitive sealed bidding is either not practicable or not advantageous to the public, goods, services or insurance may be procured by competitive negotiation. The writing shall document the basis for this determination.

Upon a written determination made in advance by city council that competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed agent or broker selected in the manner provided for the procurement of things other than professional services in Section 18-151(3)b of the Code of Ordinances for the City of Lynchburg. The basis for this determination shall be documented in writing.

(2) Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances upon a determination, made in advance by the city manager and set forth in writing, that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination:

a. For the alteration, repair, renovation or demolition of buildings when the contract is not expected to cost more than five hundred thousand dollars (\$500,000.00); or

b. For the construction of highways and any draining, dredging, excavation, grading or similar work upon real property.

(d) Upon a determination in writing that there is only one (1) source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed

bidding or competitive negotiation. The writing shall document the basis for this determination. The city manager or his designee shall issue a written notice stating that only one (1) source was determined to be practicably available, and identifying that which is being procured, the contractor selected and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area or published in a newspaper of general circulation on the day the city awards or announces its decision to award the contract, whichever occurs first.

(e) In case of emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. The city manager or his designee shall issue a notice stating that the contract is being awarded on an emergency basis, and identifying that which is being procured, the contractor selected and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area or published in a newspaper of general circulation on the day the city awards or announces its decision to award the contract, whichever occurs first, or as soon thereafter as is practicable.

(f) The city may award single or term contracts not to exceed thirty thousand dollars (\$30,000.00) and contracts for microcomputers and related peripheral equipment and services not expected to exceed \$30,000 without competitive sealed bidding or competitive negotiation. Competition will be required wherever practical, pursuant to written policies and procedures adopted by the city manager.

(g) Upon a determination made in advance by the city manager and set forth in writing that the purchase of goods, products or commodities from a public auction sale is in the best interests of the public, such items may be purchased at the auction. The writing shall document the basis for this determination. (Ord. No. O-82-262, § 1, 12-14-82; Ord. No. O-85-002, § 1, 1-8-85; Ord. No. O-88-015, § 1, 1-26-88; Ord. No. O-88-284, § 1, 10-25-88; Ord. No. O-90-129, 5-8-90; Ord. No. O-96-041, 2-13-96; Ord. No. O-96-272, 10-8-96)

Sec. 18-152.1. Exceptions to requirement for competitive procurement.

(a) The city may enter into contracts without competition for the purchase of goods or services (i) which are performed or produced by persons, or in schools or workshops, under the supervision of the Virginia Department for the Visually Handicapped; or (ii) which are performed or produced by nonprofit sheltered workshops or other nonprofit organizations which offer transitional or supported employment services serving the handicapped.

(b) The city may enter into contracts without competition for (i) legal services; or (ii) expert witnesses and other services associated with litigation or regulatory proceedings.

(c) The city may extend the term of an existing contract for services to allow completion of any work undertaken but not completed during the original term of the contract.

(d) The city, while administering public assistance programs as defined in Section 63.1-87 or the fuel assistance program, may procure goods or personal services for direct use by the recipients of such programs without competitive sealed bidding or competitive negotiations if the procurement is made for an individual recipient. Contracts for the bulk procurement of goods or services for the use of recipients shall not be exempted from the requirements of Section 18-152 of this code.

(e) The city may enter into contracts without competitive sealed bidding or competitive negotiation for insurance if purchased through an association of which it is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies; provided, such association has procured the insurance by use of competitive principles and provided that the city manager or his designee has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

(f) The city may purchase goods and services by means of contracts obtained by the commonwealth through competitive sealed bidding. (Ord. No. O-85-002, § 1, 1-8-85; Ord. No. O-88-015, § 1, 1-26-88)

Sec. 18- 152.2. Discrimination prohibited.

In the solicitation or awarding of contracts, the City shall not discriminate because of the race, religion, color, sex or national origin of the bidder or offeror. Whenever solicitations are made, the City shall include businesses selected from a list made available by the Office of Minority Business Enterprise. (Ord. No. O-85-002, § 1, 1-8-85)

Sec. 18- 153. Bonds.

Bids and performance and payment bonds, payable to the City of Lynchburg as provided for in section 11-57 and section 11-58 of the Code of Virginia (1950), as amended, shall be required in all construction contracts. (Ord. No. O-82-262, § 1, 12-14-82; Ord. No. O-85-002, § 1, 1-8-85)

Sec. 18- 154. Cancellation, rejection of bids; waiver of informalities.

(a) An Invitation to Bid, a Request for Proposal, any other solicitation, or any and all bids or proposals may be cancelled or rejected. The reasons for cancellation or rejection shall be made part of the contract file.

(b) The city may waive informalities in bids. (Ord. No. O-82-262, § 1, 12-14-82; Ord. No. O-85-002, § 1, 1-8-85)

Sec. 18- 155. Use of brand names.

Unless otherwise provided in the Invitation to Bid, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named; it conveys the general style, type, character and quality of the article desired, and any article which the public body in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. (Ord. No. O-82-262, § 1, 12-14-82)

Sec. 18- 156. Employment discrimination by contractor prohibited.

The city shall include in every contract of over ten thousand dollars (\$10,000.00) the provisions in (a) and (b) herein:

(a) During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(2) The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

(3) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

(b) The contractor will include the provisions of the foregoing paragraphs (1), (2), and (3) in every subcontract or purchase order of over ten thousand dollars (\$10,000.00), so that the provisions will be binding upon each subcontractor or vendor. (Ord. No. O-82-262, § 1, 12-14-82; Ord. No. O-85-002, § 1, 1-8-85)

Sec. 18-157. Debarment.

The director of public works, in the case of construction projects, and the budget and procurement administrator, in all other matters, may, in the public interest, debar a prospective contractor for any of the causes in subsection (a). using the procedures in subsection (c). The existence of a cause for debarment under subsection (a), however, does not necessarily require that the contractor be debarred; the seriousness of the contractor's acts or omissions and any mitigating factors should be considered in making any debarment decision.

(a) Causes for debarment. The appropriate administrator/director may debar a prospective contractor for any of the causes listed in paragraphs (1) through (3) following:

(1) Conviction of or civil judgment for:

- a. commission of fraud or a criminal offense in connection with (i) obtaining, (ii) attempting to obtain, or (iii) performing a public contract or subcontract;
- b. violation of federal or state antitrust statutes relating to the submission of offers;
- c. commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; or
- d. commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a government contractor or subcontractor.

(2) Violation of the terms of a government contract or subcontract so serious as to justify debarment, such as:

- a. willful failure to perform in accordance with the terms of one or more contracts; or
- b. a history of failure to perform, or of unsatisfactory performance of, one (1) or more contracts.

(3) Any other cause of so serious or compelling a nature that it affects the present responsibility of a government contractor or subcontractor.

(b) The budget and procurement administrator and the director of public works shall establish procedures for the prompt reporting, investigation and referral of matters appropriate for their consideration.

(c) Procedures for debarment. The following procedures governing the debarment decisionmaking process are designed to be as informal as practicable, consistent with principles of fundamental fairness:

(1) Debarment shall be initiated by advising the prospective contractor and any specifically named affiliate, by certified mail, return receipt requested, that debarment is being considered. Said notice shall include:

- a. The reasons for the proposed debarment in terms sufficient to put the contractor on notice of the conduct or transaction upon which it is based;
- b. The causes relied upon under subsection (a); and
- c. The potential effect of the proposed debarment.

(2) Debarment shall be a period commensurate with the seriousness of the cause.

(3) The prospective contractor may submit within thirty (30) days after receipt of notice, in person, in writing, or through a representative, information and argument to the proposed debarment, including any additional specific information that raises a genuine dispute over the material fact.

(4) The appropriate administrator/director shall render a written decision within fifteen (15) days of the receipt of information and argument in opposition to the proposed debarment.

(5) The decision of the administrator/director shall be final unless the prospective contractor appeals within thirty (30) days of receipt by invoking administrative procedures provided for by this ordinance, or in the alternative by instituting legal action as provided in the act.

(6) No contract shall be awarded to the contractor pending a debarment decision. (Ord. No. O-82-262, § 1, 12-14-82; Ord. No. O-85-002, § 1, 1-8-85; Ord. No. O-91-224, 9-10-91, eff. 10-1-91)

Sec. 18- 157.1.Participation of small businesses and businesses owned by women and minorities.

The city shall establish programs consistent with all provisions of this division to facilitate the participation of small businesses and businesses owned by women and minorities in procurement transactions. Such programs shall be in writing, and shall include cooperation with the State Office of Minority Business Enterprise, the United States Small Business Administration and other public or private agencies. (Ord. No. O-85-002, § 1, 1-8-85)

Sec. 18- 158. Ne go ti a ti on with low est re spon si ble bid der.

Unless cancelled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted, except that if the bid from the lowest responsible bidder exceeds available funds, the city may negotiate with the apparent low bidder to obtain a contract price within available funds.

(a) Procedures for negotiations. If the city wishes to negotiate with the apparent low bidder to obtain a contract price within available funds, negotiations shall be conducted in accordance with the following procedures:

(1) The using agency shall provide the director of public works, in the case of construction projects, and the budget and procurement administrator, in all other matters, with a written determination that the apparent low bid exceeds available funds. Said determination shall be confirmed in writing by the director of finance or his designee. The using agency shall also provide the appropriate administrator/director with a suggested reduction in scope for the proposed purchase.

(2) The appropriate administrator/director shall advise the lowest responsible bidder, in writing, that the proposed purchase exceeds available funds. He shall further suggest a reduction in scope for the proposed purchase, and invite the lowest responsible bidder to amend its bid proposal based upon the proposed reduction in scope.

(3) Repetitive informal discussions with the lowest responsible bidder for purposes of obtaining a contract within available funds shall be permissible.

(4) The lowest responsible bidder shall submit an addendum to its bid, which addendum shall include the change in scope for the proposed purchase, the reduction in price and the new contract value.

(5) If the proposed addendum is acceptable to the city, the city may award a contract within funds available to the lowest responsible bidder based upon the amended bid proposal.

(6) If the city and the lowest responsible bidder cannot negotiate a contract within available funds, all bids shall be rejected. (Ord. No. O-82-262, § 1, 12-14-82; Ord. No. O-85-002, § 1, 1-8-85; Ord. No. O-91-224, 9-10-91, eff. 10-1-91)

Sec. 18- 158.1. Pub li c in spec ti on of cer tain rec ords.

(a) Except as provided herein, all proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act (section 2.1-340 et seq. of the Code of Virginia (1950), as amended).

(b) Cost estimates relating to a proposed procurement transaction prepared by or for the city shall not be open to public inspection.

(c) Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the City decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract.

(1) Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award, except in the event that the City decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to public inspection only after award of the contract.

(2) Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.

(d) Trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the bidder, offeror or contractor must invoke the protections of this section prior to or upon submission of the data or other materials, and must identify the data or other materials to be protected and state the reasons why protection is necessary. (Ord. No. O-85-002, § 1, 1-8-85)

Sec. 18-159. Administrative appeals procedure.

(a) Any bidder, offeror or contractor may protest a decision to award or an award, appeal a decision to refuse to allow withdrawal of bids, appeal a decision of disqualification, debarment or a determination of nonresponsibility, or appeal a decision on disputes arising during the performance of a contract.

(b) Any protest or appeal pursuant to this section shall be in accordance with such administrative procedures as the city manager may prescribe.

(1) Any bidder, offeror or contractor shall submit a written protest or letter of appeal to the city manager with a copy to the director of public works, in the case of construction contracts, and the budget and procurement administrator, in all other matters, within the time constraints as set forth in the act. The written protest or appeal shall include the basis for the protest or appeal and the relief sought, and whether the bidder, offeror or contractor wishes to have a hearing with respect to the protest or appeal.

(2) If no hearing is requested, the city manager or his designee shall render a written decision to the bidder, offeror or contractor within ten (10) days of receipt of the written protest or letter of appeal.

(3) If a hearing is requested, it shall be held within (10) days of receipt of the written protest or letter of appeal, and a final decision shall be rendered within ten (10) days of the hearing. During the hearing, the protesting party shall have the opportunity to present pertinent information and to cross-examine adverse witnesses. The hearing shall be an informal administrative proceeding rather than a judicial-type trial, and it will be conducted by a disinterested person, who may be a city employee, appointed by the city manager.

(4) The findings of fact shall be final and conclusive and shall not be set aside unless the same are fraudulent or arbitrary or capricious, or so grossly erroneous as to imply bad faith. No determination on an issue of law shall be final if appropriate legal action is instituted in a timely matter.

(5) Any party to the administrative procedure shall be entitled to institute judicial review if such action is brought within thirty (30) days of receipt of the written decision. (Ord. No. O-82-262, § 1, 12-14-82; Ord. No. O-85-002, § 1, 1-8-85; Ord. No. O-91-224, 9-10-91, eff. 10-1-91)

Sec. 18-160. Preference for Virginia products and firms.

(a) In the case of a tie bid, preference shall be given to goods, services and construction produced in Virginia or provided by Virginia persons, firms or corporations, if such a choice is available; otherwise the tie shall be decided by lot.

(b) Whenever any bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a preference, a like preference may be allowed to the lowest responsible bidder who is a resident of Virginia. (Ord. No. O-82-262, § 1, 12-14-82; Ord. No. O-85-002, § 1, 1-8-85)

Sec. 18-161. Cooperative procurement.

The City may participate in, sponsor, conduct or administer a cooperative procurement agreement with one or more other public bodies for the purpose of combining requirements to increase efficiency or reduce administrative expenses. Any public body which enters into a cooperative procurement agreement with the City shall comply with the policies and procurements adopted by this ordinance. (Ord. No. O-82-262, § 1, 12-14-82)

Sec. 18-162. Adoption of Code of Virginia provisions.

The provisions of the following sections of the Code of Virginia (1950), as amended, are hereby enacted by reference and become a part of this ordinance as if fully set out herein:

Section 11-63, "Ineligibility;"

Section 11-64, "Appeal of Denial of Withdrawal of Bid;"

Section 11-65, "Determination of Nonresponsibility;"

Section 11-66, "Protest of Award or Decision to Award;"

Section 11-67, "Effect of Appeal upon Contract;"

Section 11-68, "Stay of Award During Protest;"

Section 11-69, "Contractual Disputes;"

Section 11-70, "Legal Actions;" and

Sections 11-72 through 11-80, "Ethics in Public Contracting."

(Ord. No. O-82-262, § 1, 12-14-82; Ord. No. O-85-002, § 1, 1-8-85)

Sec. 18-163. Adoption of procurement manual.

The City Manager is authorized and directed to establish procedures, which may be in the form of a Procurement Manual, to implement the provisions of this ordinance. (Ord. No. O-82-262, § 1, 12-14-82)

Sec. 18-164. Separability.

If any provision of this ordinance or any application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable. (Ord. No. O-82-262, § 1, 12-14-82)

